

# INTRODUCTION OF THE "PRESERVATION OF FEDERALISM IN BANKING ACT"

**HON. LUIS V. GUTIERREZ**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 26, 2005*

Mr. GUTIERREZ. Mr. Speaker, I am pleased to introduce legislation today that continues the long fight to maintain state consumer protections for customers of national banks. In January 2004, the Office of the Comptroller of the Currency (OCC), the primary regulator of national banks, introduced regulations to preempt the application of state laws and the authority of state officials over their regulated entities. Since that time, other banking regulators have joined this race to the bottom. My legislation will provide much-needed clarification in this area.

Last year, USA Today, the nation's newspaper, condemned the OCC's preemption rules in an editorial, claiming that they threaten "strong consumer protection laws that have been the responsibility of states for more than a century." The newspaper said the OCC rules will make "millions of consumers vulnerable" to illegal loan practices. The OCC's Chief Counsel irreverently characterized these concerns as "baloney."

Over the last year, we have worked together as a broad bipartisan coalition who sees state consumer protection as a bread and butter issue, rather than "baloney."

This legislation is merely the latest step to ensure that our states have the power to protect consumers.

And to stop the OCC from eroding strong safeguards that have been used by the states for more than a century to enforce consumer protection laws.

The preemption rules were a misguided, unprecedented, unchecked expansion of its authority, especially since the states, rather than the OCC, currently have the tools and resources to effectively enforce consumer protection and other important laws. This agency has repeatedly demonstrated that it is far more concerned with currying favor among the banks it regulates instead of fulfilling its regulatory responsibilities under the law.

Last year, I passed an amendment to the Financial Services Committees Budget Views expressing concern regarding the budgetary effects of the OCC's preemption rules. The budget views put the Financial Services Committee on record that the OCC's preemption rules represent an unprecedented expansion of authority, one that was instituted without Congressional authorization. Subsequently, I introduced legislation to reverse the preemption rules, and then, toward the end of last Congress, Mr. FRANK and I introduced a version of what we are again introducing today.

Our bill ensures that national banks will be bound by state consumer protection laws, including predatory mortgage lending statutes. It also prohibits banks from benefiting from part of a state law while refusing to comply with a consumer-friendly portion of the same law. For example, a bank in Ohio is currently using the state law mechanism for foreclosing properties, but failing to abide by another provision in the statute, which limits fees for consumers. This legislation also allows state attorneys

general to enforce laws and bring suit against banks when appropriate. As a former City Council member, I believe that the accountability of local officials is crucial. Few consumers can sort through the alphabet soup of regulators and figure out whom to contact if they have a problem with their bank. But almost every consumer knows that their attorney general is there to protect them, so we must ensure that they retain authority over banks.

I am pleased to have been joined on this legislation by Representatives FRANK, LEE and MCCARTHY as original cosponsors and I urge all of my colleagues to support this effort.

## 15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT: MUCH ACCOMPLISHED, BUT MORE PROGRESS NEEDED

**HON. JANICE D. SCHAKOWSKY**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 26, 2005*

Ms. SCHAKOWSKY. Mr. Speaker, today I rise to celebrate the 15th anniversary of the Americans with Disabilities Act. When the ADA was signed on July 26, 1990, it promised "equality of opportunity, economic self-sufficiency, inclusion and independence" for people with disabilities. This landmark legislation—one of the most important civil rights bills of our generation—is designed to allow the disabled to be full and productive members of our society. The goal of the ADA is that no one should be isolated or denied the opportunity that is the American dream.

The motivating idea behind the ADA is the recognition that persons with disabilities deserve to enjoy true equality and independence, to be part of our Nation not isolated within it. The ADA says it is wrong that individuals cannot join their friends at a movie theater or restaurant or sports stadium simply because they are in a wheelchair. It is wrong that disabled individuals are not hired because employers refuse to make workplace accommodations. It is wrong that, because individuals must deal with a disability, they must also deal with the lack of accessibility to public buildings, transportation and services. That kind of discrimination goes against the fundamental principles of our Nation. It is those types of obstacles that the ADA has sought to eradicate. By integrating people with disabilities into the workforce and community, we have all benefited.

While there were many individuals who were instrumental in winning the passage of the ADA, I want to acknowledge and thank two leaders in the disability rights movement: Justin Dart and Marca Bristo. Justin Dart was an inspiration for all of us who care not just about disability rights but about human rights. Marca Bristo, a constituent and friend, continues to lead the effort to expand opportunities and respect for persons with disabilities. I have had the personal privilege of knowing and learning from them and, like so many others, have been profoundly influenced by them.

Justin Dart was born in Chicago in 1930, contracted polio in 1948 and spent the rest of his life in a wheelchair. Although he died in 2002, his legacy lives on both through the thousands of advocates he has inspired and

through the work of Yoshiko Dart and the rest of his family. He was known for his grassroots activism, touring the Nation, rallying people to support disability rights. In 1981, Mr. Dart was appointed by President Reagan to be the vice-chair of the National Council on Disability. He and others on the Council drafted a national policy that called for national civil rights legislation to end the centuries-old discrimination against people with disabilities—what would eventually become the Americans with Disabilities Act of 1990. In 1988, he was appointed to lead the Congressional Task Force on the Rights and Empowerment of Americans with Disabilities. Mr. Dart toured the Nation, touting the ADA as "the civil rights act of the future." In 1990, Justin Dart received the first pen used by former President Bush at the signing ceremony for the Americans with Disabilities Act. For the remainder of his life, Justin Dart continued to work passionately to see that disabled persons were given the rights they deserve and to win "Justice for All."

Marca Bristo is a nationally and internationally acclaimed leader in the disability rights movement. In 1977, Ms. Bristo suffered a spinal injury in a car accident. Her new condition forced her to see life in a new way, and she has since been a passionate and tenacious advocate for disability rights. In 1980, she founded Access Living in Chicago, one of the Nation's first centers for independent living. Ms. Bristo served as the Presidentially-appointed chairwoman of the National Council on Disability from 1994 to 2002 and while heavily involved in the drafting of the ADA, has not been afraid to point out the need for improvements in it. As chairwoman of the NCD, she released a report on the ADA 5 years ago which focused specifically on implementation problems and has persistently argued that rights must be enforced in order to be real. Marca Bristo continues to work hard for disability rights and to improve the lives of people in Chicago and around the Nation.

Our Nation has come a long way in the 15 years since passage of the Americans with Disabilities Act. We have changed, we have become a more inclusive society, but we have not achieved our goal. The ADA has done much to break down barriers for the disabled, but we must recognize that we have far more to do to end discrimination. For 15 years now, it has been illegal for employers to discriminate against job applicants because of their disabilities. Yet, 2 of every 3 disabled persons are unemployed. It is illegal for state and local governments to deny disabled persons access to public services such as mass transit. Yet, funding constraints still leave persons with disabilities without accessible and convenient transportation options. Public and commercial buildings must be constructed and, where possible, modified to accommodate disabled persons. Yet, homes are still being built that lock people out instead of being built to be accessible and inconclusive. That is why I have introduced H.R. 1441, the Inclusive Home Design Act. Finally, too many people are still locked out of their communities because of the lack of home- and community-based services. We need to build upon the initial success of the ADA to solve these problems. Yet, today we are defending against Social Security privatization schemes that would slash disability benefits for 8 million people with disabilities and against Medicaid cuts that would jeopardize health and long-term care services.